

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE: ERICA LYNN MILTON,)	Civil No. 19-184
)	
Debtor,)	Related to:
)	
GERALD S. LEPRE, JR.,)	Bankruptcy No. 16-20747-CMB
)	
vs.)	
)	
)	Adv. Proc. No. 16-2127-CMB
ERICA LYNN MILTON,)	

MEMORANDUM OPINION

Pending before the court is a pro se motion to strike filed by Gerald S. Lepre, Jr. (“Lepre”) (ECF No. 20). Counsel for Erica Lynn Milton (“Milton”) filed a response in opposition (ECF No. 22). The motion is now ripe for disposition.

The underlying dispute was precipitated by the breakup of Lepre’s and Milton’s volatile personal relationship. In 2015, Milton obtained a protection from abuse order and Lepre was forced to leave the home where they had previously resided. Lepre contended that Milton failed to return all his personal belongings and made false statements during her bankruptcy case. The bankruptcy court held an evidentiary hearing and found in favor of Milton. On September 24, 2019, this court issued an opinion and order declining to dismiss Lepre’s appeal as frivolous, but affirming the February 4, 2019 decision of the bankruptcy court in favor of Milton. On November 6, 2019, the court denied Lepre’s motion for reconsideration.

On November 22, 2019, the bankruptcy court issued a Chapter 7 discharge to Milton. On November 30, 2019, Lepre filed the pending motion to strike, asking this court to strike the Chapter 7 discharge as having been prematurely entered before Lepre’s appeal period expired.

The same day, on November 30, 2019, Lepre filed an appeal of this court’s denial of his motion for reconsideration to the Third Circuit Court of Appeals. Because Lepre was pursuing an appeal, this court did not act on the motion to strike. In an opinion dated October

15, 2020, the court of appeals affirmed this court's decision in favor of Milton, stating: "We agree with the District Court that the appeal was meritless." (ECF No. 26-1 at 5). The mandate was returned to this court on November 6, 2020 (ECF No. 26).

This court may now resolve the motion to strike. Because the court of appeals affirmed that Lepre's appeal is without merit, there is no non-frivolous basis for him to challenge the bankruptcy court's issuance of a Chapter 7 discharge to Milton. The motion to strike (ECF No. 20) will, therefore, be denied as moot.

An appropriate order will be entered.

Dated: December 2, 2020

BY THE COURT:

/s/ Joy Flowers Conti
Joy Flowers Conti
Senior United States District Judge